IN THE

Supreme Court of the United States

October Term, 1979
No. 79-772

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION,
Petitioner,

vs.

INSTITUTE OF GOVERNMENTAL ADVOCATES,
Respondent.

Brief of Institute of Governmental Advocates in Opposition to Petition for Writ of Certiorari to the Supreme Court of the State of California.

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SUBJECT INDEX

TABLE OF AUTHORITIES CITED

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Respondent, Institute of Governmental Advocates ("IGA"), respectfully prays that this Court *not* issue a writ of certiorari to review the judgment and opinion of the Supreme Court of the State of California entered in this proceeding.

Opinion Below.

The citations to the unofficial reports of the opinion of the Supreme Court of the State of California in this matter are 157 Cal.Rptr. 855; 598 P.2d 46 (1979).

Jurisdiction.

Respondent does not challenge this Court's jurisdiction to issue a writ of certiorari herein but contends that Petitioner has not presented grounds justifying such action.

Constitutional Provisions, Statutes and Regulations Involved.

The petition for writ of certiorari sets forth, at page 3 and Appendix II thereof, the California statutes and administrative regulations involved in this action.

Also involved and, indeed, dispositive of the issues presented by the petition are the First and Fourteenth Amendments of the United States Constitution which provide, in relevant part:

> *First Amendment:* "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances."
>
> *Fourteenth Amendment, Section 1:* ". . . No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Questions Presented.

Did the Supreme Court of California err in holding that the First Amendment of the United States Constitution requires invalidation of a state statute because the statute abridges the associational freedoms of persons defined as "paid lobbyists" by prohibiting them from making political contributions, or acting as intermediaries for such contributions, to a state candidate, a committee supporting a state candidate, or an elected state officer even though:

(a) The prohibition is not limited to persons who either have had occasion or expect to have occasion to seek to influence the recipient of the contribution; and

(b) "Paid lobbyist" is defined to include not only legislative lobbyists but also persons who appear regularly before administrative agencies seeking to influence administrative determinations in favor of their clients; and

(c) The statute does not discriminate between small and large contributions but instead prohibits all contributions?

Statement of the Case.

Petitioners' statement of the case (Petition pp. 3-4) is accurate, but incomplete. In addition to the facts there stated, the judgment and opinion of the Supreme Court of California was based upon Findings of Fact made by the Superior Court of the State of California in and for the County of Los Angeles, which provide in relevant part:

1. Plaintiff, Institute of Governmental Advocates (hereinafter, "IGA"), is a bonafide California nonprofit corporation formed to promote the interests of governmental advocates and lobbyists. Within one year prior to the commencement of this action, plaintiff paid a tax within and to the State of California.

2. The members of IGA are or have been engaged in governmental advocacy. Forty-seven of IGA's fifty members are lobbyists registered with the Secretary of State pursuant to Chapter 6 of the Political Reform Act of 1974, Government Code Title 9 (hereinafter, "the Act"). The members of IGA are or may be subject to the requirements and restrictions upon lobbyists contained in Chapter 6 of the Act.

* * *

8. Members of IGA desire to make contributions proscribed by Government Code § 86202, to act as agents or intermediaries in the making of such contributions and to arrange for the making of such contributions by themselves and by other persons, to candidates for state offices, committees supporting those candidates, and elected state officers, and would do so if not prevented by § 86202. Such contributions would include both contributions to candidates for elective state office (as defined in Government Code § 86204) whom members of IGA are retained to influence and also contributions to those whom they are not retained to influence, and with whom they have no contact, other than occasional social contact in some instances.

* * *

10. Members of IGA desire to make contributions proscribed by Government Code § 86202 in order to help elect public officials in whom they have confidence and by whom they believe they will be given a fair hearing when presenting their clients' views and positions for consideration.

Reason Why the Petition for Writ of Certiorari Should Not Be Granted.

The considerations governing review on certiorari of a state court decision, as set forth in U.S. Supreme Court Rule 19(a), have no application to this case, in that while the precise federal question of substance decided by the Supreme Court of California has not heretofore been determined by this Court, that question was decided below in accord with applicable decisions of this Court. Accordingly, there are no special or important reasons for granting the writ.

ARGUMENT.

The Supreme Court of the State of California correctly held that Section 86202 of the California Government Code unnecessarily and thus impermissibly abridges the associational freedoms of respondent's members and the other persons to whom the statute applies.* The Court's decision should stand for all of the following reasons.

Section 86202 of the Act entirely prohibits lobbyists, as very broadly defined, from making campaign contributions to candidates (or committees supporting candidates) for Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the State Board of Equalization, and State Senator or Assemblyman. Section 86202 also prohibits a lobbyist from arranging for, or acting as intermediary in, the making of any such contribution "by himself or by any other person."

These prohibitions have a much broader scope than might first appear, for two reasons. *First,* the class of persons prohibited from making contributions is not limited to "legislative lobbyists" as that term is traditionally understood. The prohibition also extends to persons regularly engaged for compensation in appearing before state administrative agencies in rate-

*Sections 86202 and 86204 provide:

"86202. *Unlawful Contribution.* It shall be unlawful for a lobbyist to make a contribution, or to act as an agent or intermediary in the making of any contribution, or to arrange for the making of any contribution by himself or by any other person."

"86204. *Receipt of Unlawful Contribution or Gift.* It shall be unlawful for any person knowingly to receive any contribution or gift which is made unlawful by Section 86202 or 86203."

making or rule-making proceedings. See Sections 82039, 82002, 82004 and 82032.* For example, under regulations issued by the Fair Political Practices Commission ("FPPC"), a lawyer who over two months spends 40 hours or more appearing in public hearings before the Public Utilities Commission and one hour or more in communications with officials of that agency is a "lobbyist" within the meaning of the Act. 2 Cal.Adm. Code Section 18239(b); 18239(e)(2)(A).**

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*"82039. *Lobbyist.* 'Lobbyist' means any person who is employed or contracts for economic consideration, other than reimbursement for reasonable travel expenses, to communicate directly or through his agents with any elective state official, agency official or legislative official for the purpose of influencing legislative or administrative action, if a substantial or regular portion of the activities for which he receives consideration is for the purpose of influencing legislative or administrative action. No person is a lobbyist by reason of activities described in Section 86300."

"82002. *Administrative Action.* 'Administrative action' means the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding, which shall include any proceeding governed by Chapter 4.5 of Division 3 of Title 2 of the Government Code (beginning with Section 11371)."

"82004. *Agency Official.* 'Agency official' means any member, officer, employee or consultant of any state agency who as part of his official responsibilities participates in any administrative action in other than a purely clerical, secretarial or ministerial capacity."

"82032. *Influencing Legislative or Administrative Action.* 'Influencing legislative or administrative action' means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies, or analyses."

**"18239. *'Lobbyist': Definition of Terms Used in Gov. Code Section 82039.* As used in Section 82039:

"(b) 'Communicate directly' (and "direct communication" in this regulation) means to appear as a witness, to talk (either on the telephone or in person) with any elective state official, legislative official, or agency official, to correspond with such officials or to answer questions or inquiries from such officials, regardless of whether the communication is in person or through an agent."

* * *

"(e) 'Substantial or Regular' means meeting one of the following tests:

(1) *Compensation test.* Receiving or becoming entitled to receive $1,000 or more in any 30-day period for the purpose of communicating directly with legislative, administrative or elective state officials, excluding reimbursements for reasonable travel expenses and wages which are received as a full-time employee engaged primarily to perform services other than influencing or attempting to influence legislative or administrative action.

(2) *Time tests.* In any period consisting of two consecutive calendar months:

(A) For persons who are not employees or officials of local government agencies;

1. Spending a total of 40 hours, including 10 hours in direct communication influencing or attempting to influence legislative action; or

2. Spending 40 hours engaging in administrative testimony and at least one hour of other direct communication with officials of the agency or agencies to whom the administrative testimony is directed; or

3. Spending 200 hours engaging in administrative testimony."

Second, Section 86202's prohibitions are not limited to contributions made to candidates that a "lobbyist" sought to influence, does seek to influence or intends to seek to influence. Accordingly, a legislative lobbyist is barred from contributing, *e.g.,* to the campaign of a candidate for Superintendent of Public Instruction, and an attorney appearing before the Public Utilities Commission who falls within the definition of "lobbyist" as described above is barred from making a contribution to his own state Senator or Assemblyman.

The broad reach of Section 86202's prohibitions is real, not theoretical, in the case of IGA's members. The trial court found in the action below that mem-

bers of IGA desire (but are not allowed, by dint of Section 86202) to make contributions and to participate in the making of contributions to, among others, candidates "whom members of IGA . . . are not retained to influence, and with whom they have no contact, other than occasional social contact in some instances." (Finding No. 8). For this and other reasons, the California Supreme Court held the sweeping prohibitions of Section 86202 unconstitutional, stating:

> Obviously, the prohibition against lobbyist contributions in section 86202 is a substantial restriction of the lobbyists' freedom of association, and the restriction may be upheld only if the "State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedoms." (*Buckley v. Valeo, supra,* 424 U.S. 1, 25 [46 L.Ed.2d 659, 691].) The statute fails to meet the test.

The claimed state interest is to rid the political system of both apparent and actual corruption and improper influence. Under *Buckley* such a purpose justifies closely drawn restrictions. However, it does not appear that total prohibition of all contributions by any lobbyist is a closely drawn restriction.

First, the prohibition applies to contributions to any and all candidates even though the lobbyist may never have occasion to lobby the candidate. Secondly, the definition of lobbyist is extremely broad, to include persons who appear regularly before administrative agencies seeking to influence administrative determinations in favor of their clients. Thirdly, the statute does not discriminate

between small and large but prohibits all contributions. Thus, it is not narrowly directed to the aspects of political association where potential corruption might be identified.

While either apparent or actual political corruption might warrant some restriction of lobbyist associational freedoms, it does not warrant total prohibition of all contributions by all lobbyists to all candidates.

The governmental interests held to warrant substantial restrictions on political rights in *CSC v. Letter Carriers, supra,* 413 U.S. 548, have no greater application to lobbyists than to other private campaign contributors.

Section 86202 is invalid because it is not "closely drawn to avoid unnecessary abridgment of associational freedoms." (*Buckley v. Valeo, supra,* 424 U.S. 1, 25 [46 L.Ed.2d 659, 691].) (25 Cal.3d at p. 45.)

Section 86202 deprives lobbyists of fundamental, cherished constitutional freedoms. Recently, in *Buckley v. Valeo,* 424 U.S. 1, 24-25 (1976) (hereinafter, "*Buckley*"), this Court affirmed that any limitation upon the making of campaign contributions is a

> . . . restriction of one aspect of the contributor's freedom of political association. The Court's decisions involving associational freedoms establish that the right of association is a "basic constitutional freedom." *Kusper v. Pontikes,* 414 US, at 57, 38 L Ed 2d 260, 94 S Ct 303, that is "closely allied to freedom of speech and a right which, like free speech, lies at the foundation of a free society." *Shelton v. Tucker,* 364 US

479, 486, 5 L Ed 2d 231, 81 S Ct 247 (1960). See, e.g., *Bates v. Little Rock*, 361 US 516, 522-523, 4 L Ed 2d 480, 80 S Ct 412 (1960); *NAACP v. Alabama, supra,* at 460-461, 2 L Ed 1488, 78 S Ct 1163; *NAACP v. Button,* 371 S Ct, at 452, 9 L Ed 2d 405, 83 S Ct 328 (Harlan, J., dissenting). In view of the fundamental nature of the right to associate, governmental "action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny." *NAACP v. Alabama, supra,* at 460-461, 2 L Ed 2d 1488, 78 S Ct 1163.

The First Amendment's guarantees of free speech, the right of petition, and the rights of assembly and association, applicable to the states through the Fourteenth Amendment, [*First National Bank of Boston v. Bellotti*, 435 U.S. 765, 779-780 (1978)], were designed and operate to assure that *every* citizen be allowed to participate in the process of self-government. See *Buckley, supra,* 424 U.S. at 14-15.*

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*During its last term, this Court in *Smith v. Arkansas State Highway Employees,* ..... U.S. .....; 60 L.Ed.2d 360, 362; 99 S.Ct. ..... (1979) (Per Curiam) reaffirmed that:

"[t]he First Amendment protects the right of an individual to speak freely, to advocate ideas, to associate with others, and to petition his government for redress of grievances. And it protects the right of associations to engage in advocacy on behalf of their members. *NAACP v. Button,* 371 US 415, 9 L Ed 2d 405, 83 S Ct 328; *Eastern Railroad Presidents Conf. v. Noerr Motor Freight Inc.,* 365 US 127, 5 L Ed 2d 464, 81 S Ct 523. The Government is prohibited from infringing upon these guarantees either by a general prohibition against certain forms of advocacy, *NAACP v. Button, supra,* or by imposing sanctions for the expression of particular views it opposes, e.g., *Brandenburg v. Ohio,* 395 US 444, 23 L Ed 2d 430, 89 S Ct 1827, 48 Ohio Ops 2d 320; *Garrison v. Louisiana,* 379 US 64, 13 L Ed 2d 125, 85 S Ct 209."

It is undeniable that the right of petition is a primary right guaranteed by the First Amendment and is binding on the States. See *Edwards v. South Carolina,* 372 U.S. 229, 235 (1963). The right of petition is not confined to demands for "redress of grievances" in a limited sense but contemplates demands made of government for an exercise of its powers in furtherance of petitioners' economic interests and their views with regard to politically controversial matters. *Eastern R.R. Presidents Conference v. Noerr Motor Freight,* 365 U.S. 127, 139 (1965). In addition, the right extends to the approach by citizens or groups of them to administrative agencies. *California Transport v. Trucking Unlimited,* 404 U.S. 508, 510 (1972).

Furthermore, it is clear that the mere fact that a lobbyist earns his living by exercising First Amendment rights in no way vitiates his ability to assert those rights on his own behalf or on behalf of those who employ him. *Follett v. McCormick,* 321 U.S. 573, 577 (1944); *Moffett v. Killian,* 360 F.Supp. 228, 231 (D. Conn. 1973).

Neither does the speech itself in which the lobbyist is engaged, both within and without the exercise of the right to petition, lose its First Amendment protection because money is spent to project it or because the speaker's interest is largely an economic one. *Bates v. State Bar of Arizona,* 433 U.S. 350, 363-64 (1977); *Va. Pharmacy Bd. v. Va. Consumer Council,* 425 U.S. 748, 761 (1976).

Because it prohibits lobbyists, as broadly defined, from making campaign contributions from their own funds to candidates of their personal choice, Section 86202 sweeps away, from both a legal and a practical

standpoint, a significant aspect of the lobbyist's constitutional political freedoms. This Court has expressly held that the giving of campaign contributions is directly protected by the First Amendment, because it involves both the freedom of association and the giver's freedom of speech itself. *Buckley, supra*, 424 U.S. at 14-23. Furthermore, the making of campaign contributions constitutes the principal means, besides voting itself, whereby many citizens effectively exercise their right of political participation to the end of electing officials in whom they have confidence. By prohibiting lobbyists from making such contributions, Section 86202 completely bars them from thus exercising this aspect of their "freedom of political association", as well as the historic rights of speech and association attendant to the making of contributions. *Buckley, supra*, 424 U.S. at 24-25.

This court has stated in *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 786 (1978), that where in seeking to impose a deprivation of fundamental rights

> . . . a prohibition is directed at speech itself, and the speech is intimately related to the process of governing, "the State may prevail only upon showing a subordinating interest which is compelling," *Bates v. Little Rock*, 361 US 516, 524, 4 L Ed 2d 480, 80 S Ct 412 (1960); see *NAACP v. Button*, 371 US 415, 438-439, 9 L Ed 2d 405, 83 S Ct 328 (1963); *NAACP v. Alabama*, 357 US, at 463, 2 L Ed 2d 1488, 78 S Ct 1163; *Thomas v. Collins*, 323 US 516, 530, 89 L Ed 430, 65 S Ct 315 (1945), "and the burden is on the government to show the existence of such an interest." *Elrod v. Burns*, 427 US 347, 362, 49 L Ed 2d 547, 96 S Ct 2673 (1976). Even then, the State must employ means "closely drawn to avoid unnecessary abridgment . . . ." *Buckley v. Valeo*, 424 US, at 25, 46 L Ed 2d 659, 96 S Ct 612; see *NAACP v. Button, supra*, at 438, 9 L Ed 2d 405, 83 S Ct 328; *Shelton v. Tucker*, 364 US 479, 488, 5 L Ed. 2d 231, 81 S Ct 247 (1960).

Section 86202's sweeping prohibition of political contributions by lobbyists plainly fails to satisfy these tests.

The FPPC asserts that the state interest supporting the prohibition is the same as this Court perceived in *Buckley, supra*, as sufficient to sustain a dollar limitation on campaign contributions: protection against the appearance and actuality of corruption. But this Court in *Buckley* specifically observed that it was *large* campaign contributions that create this "actuality and potential for corruption," and that the limitation there sustained focused precisely on this size-of-gift problem, while leaving individuals free otherwise to exercise the constitutional rights inherent in contributing by making smaller contributions. 424 U.S. at 28. Section 86202's *total ban* on lobbyists' contributions is clearly distinguishable. The FPPC's notion that there is an appearance or possibility of corruption in *every* contribution by *every* lobbyist, simply because lobbyists exercise the right of petition and deal with elected officials cannot be sustained: it is unrealistic, and indeed gratuitously denigrates the right of petition exercised by lobbyists.

Moreover, Section 86202 sweeps far beyond this supposed rationale in that it prohibits lobbyists from contributing to candidates that they will not even at-

tempt to lobby.* As previously noted, the findings of fact in the action below establish that IGA's members desire to make contributions to, among others, "candidates . . . whom members of IGA . . . are not retained to influence, and with whom they have no contact, other than occasional social contact in some instances." There is no conceivable basis for a prohibition extending to such contributions.

A similarly overbroad infringement on protected political freedoms is worked by Section 86202's prohibition of a lobbyist's participation in the making of contributions by "any other person". Such "person" is not limited to the lobbyist's employer, but would include, for example, members of a political club to which the lobbyist belongs. This feature of the statute operates to prevent a lobbyist from exercising the freedom to associate with like-minded individuals in promoting the election of candidates in whom they have confidence—and to associate for other purposes as well. For example, the FPPC has construed the statute to bar a lobbyist from serving on a state labor organization's political education committee, where the committee's functions include the recommendation of candidates for endorsement by a state convention, which endorsement is a precondition to the making of contributions by an affiliated national labor organization.**

*See, for example, Opinion Requested by Katherine Rawlins, Executive Secretary, Sacramento Democratic Central Committee, 1 FPPC Opinions 62 (No. 75-053, July 2, 1975) wherein Section 86202 was interpreted by Petitioner FPPC as making unlawful a check debiting plan whereby a lobbyist contributed funds to a Democratic Central Committee even though the committee might not be directly supporting a state candidate during years without state elections and the contributions could be used to pay for committee overhead expenses.

**Opinion Requested by California Labor Federation, AFL-CIO, 1 FPPC Opinions 28 (No. 75-004, June 18, 1975).

This overbroad operation of Section 86202's prohibition against "arranging" contributions cannot be justified on the rationale that it is designed to prevent enhancement of a lobbyist's influence through his participation in his employer's contributions to persons whom the lobbyist is to lobby on behalf of the employer —for two reasons. First, the prohibition extends well beyond such situations, as illustrated by the FPPC's construction just noted. Second, the prohibition is demonstrably ineffectual insofar as it purports to prevent a lobbyist from enhancing his employer's political influence (or his own) by serving as the conduit for the employer's campaign contributions. An employer remains free to make a campaign contribution to a candidate, to have the contribution delivered by a nonlobbyist employee, and then have the employer's lobbyist seek to influence the candidate following the contribution. See *Institute of Governmental Advocates v. Younger,* 70 Cal.App.3d 878, 882 (1977). Can it reasonably be supposed that the effect—if any—of this course of events upon the candidate depends upon who physically delivered the money? When "the actual promotion of a 'substantial societal interest' . . . is [this] tenuous," the restraining effect of the prohibition on First Amendment rights cannot be sustained. See *Buckley, supra,* 424 U.S. at 47-48; *Partido Nuevo Progresista v. Hernandez Colon,* 415 F.Supp. 475, 482 (D.P.R. 1976).

Section 86202 thus constitutes an overbroad and unjustified infringement upon fundamental constitutional rights of those persons defined as "paid lobbyists" to participate in the political process. It also is invalid under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The

statute singles out "lobbyists" alone for disenfranchisement from making political contributions. Since this discrimination against lobbyists precludes the exercise of fundamental rights, it is subject to the strictest of scrutiny under the Equal Protection Clause, and again may be sustained only if necessary to further a compelling governmental interest. *E.g., Dunn v. Blumstein,* 405 U.S. 330, 337 (1972). Section 86202 is not thus sustainable.

No analogy may properly be drawn here to cases sustaining limitations on the political activities of governmental employees. Lobbyists are private citizens properly engaged in exercising the right of petition. As this Court stated in its most recent decision sustaining the Hatch Act, "the government has an interest in regulating the conduct and 'the speech of its employees *that differ[s] significantly from those it possesses in connection with regulation of the speech of the citizenry in general.*'" *U.S. Civil Service Commission v. National Association of Letter Carriers,* 413 U.S. 548, 564 (1973) (Emphasis added.)*

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*The California Supreme Court *did* in its Opinion consider, and in the text immediately thereafter (see text of its Opinion at pp. 8-10, *supra*) reject the proposition that principles supporting sustaining of the Hatch Act might similarly support a total prohibition imposed upon the making of contributions by lobbyists, first observing as follows, and then immediately thereafter setting forth its views that Section 86202 was invalid:

> "A sufficiently compelling governmental interest justifying substantial interference with political rights was also found in *CSC v. Letter Carriers,* (1973) 413 U.S. 548 [37 L.Ed.2d 796, 93 S.Ct. 2880]. Upholding the Hatch Act limiting political activity of governmental employees, the court identified three governmental interests that could be harmed if governmental employees could participate publicly in political activities: (1) governmental employment and promotion might depend upon the extent of participation rather than governmental efficiency, (2) the large number of governmental employees might become a huge political machine defeating our democratic processes, and (3) partisan political activity might impair the employee's ability to act fairly without bias or favoritism. (413 U.S. at pp. 564-567 [37 L.Ed.2d at pp. 808-810].)" (25 Cal.3d at pp. 44-45.)

Nor are the decisions sustaining federal prohibitions against corporate and labor union contributions controlling or even analogous. The "persons" inhibited by these prohibitions are not individual citizens, and the courts have particularly observed that these prohibitions do not purport to bar the natural persons who comprise corporate entities from exercising their personal constitutional freedoms. See *United States v. Chestnut,* 394 F.Supp. 581, 589-90 (S.D.N.Y. 1975), *aff'd,* 533 F.2d 40 (2d Cir. 1976).

Moreover, the class disabled by Section 86202 not only comprises private citizens, but potentially extends to a large number and variety thereof, because of the very broad definition of "lobbyist". The prohibitory classification drawn by Section 86202 is arbitrary and does not serve any compelling state interest.

Conclusion.

For the reasons set forth above, a writ of certiorari should *not* issue to review the judgment and opinion of the Supreme Court of California in this action.

Respectfully submitted,

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APPENDIX I.

Institute of Governmental Advocates v. Younger, 70 Cal. App. 3d 878 (1977).

Institute of Governmental Advocates, Plaintiff and Respondent, v. Evelle J. Younger, as Attorney General, etc., et al., Defendants and Respondents; Fair Political Practices Commission, Intervener and Appellant. [Civ. No. 48818. Second Dist., Div. Four. June 21, 1977.]

SUMMARY

The Fair Political Practices Commission promulgated an interpretation of the word "arrange" as used in Gov. Code, § 86202, making it unlawful for a lobbyist to "arrange for" the making of any contribution by himself or any other person, that a lobbyist arranged for the making of a prohibited contribution if he communicated with his employer, the advice was given wholly or partially with the intent of influencing the employer's decision to make a campaign contribution, the employer in fact made a contribution, and the lobbyist's advice was a causal element in the making of the contribution. In an action challenging the validity of that interpretation, the trial court issued a preliminary injunction enjoining the commission from commencing proceedings as civil prosecutor against any lobbyist based on the single act of advising or making a recommendation to the employer of the lobbyist with regard to the making of a political contribution, where the advice or recommendation resulted in a contribution from the employer. (Superior Court of Los Angeles County, No. C-110052, Harry L. Hupp, Judge.)

The Court of Appeal affirmed, holding the commission's interpretation of the words "arrange for" properly

reflected the meaning and purpose of Gov. Code, § 86202, but that interpretation constituted an invalid invasion of the right of free speech guaranteed by U.S. Const., First Amend., and by Cal. Const., art. I, § 2, by subjecting a lobbyist to the chance that some trial court or jury may, in the future, read into his factual communication an intent to influence the employer's decision, which would limit, if not inhibit, any legitimate communication.

(Opinion by Kingsley, Acting P. J., with Dunn and Jefferson (Bernard), JJ., concurring.)

COUNSEL

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No appearance for Defendants and Respondents.

Ball, Hunt, Hart, Brown & Baerwitz, Joseph A. Ball, John R. McDonough and Allan E. Tebbetts for Plaintiff and Respondent.

Opinion.

KINGSLEY, Acting P. J.—The present appeal involves the validity of an interpretation made by appellant Fair Political Practices Commission of section 86202 of the Political Reform Act of 1974.[1] The trial court issued a preliminary injunction prohibiting the enforcement of that interpretation.[2] For the reasons set forth, below, we conclude that the interpretation enjoined constituted an invalid invasion of the right of free speech guaranteed by the First Amendment to the Constitution of the United States and by section 2 of article I of the California Constitution. Accordingly we affirm the injunction as issued.

Section 86202 of the Political Reform Act reads as follows: "It shall be unlawful for a lobbyist to make a contribution, or to act as an agent or intermediary in the making of any contribution by himself or by any other person."

Pursuant to its statutory power to issue interpretations of that act,[3] the commission promulgated an interpretation of the word "arrange," as used in section 86202. So far as is here pertinent, that interpretation reads as follows:

---

[1]That act, adopted by initiative in 1974, is codified as section 81000 et seq. of the Government Code.

[2]In the beginning, the present action was one directed against the Attorney General and the District Attorney of Los Angeles County, to enjoin them from enforcing the provisions of the act applying to lobbyists. The trial court, faced with that broad-gauged attack on the act, sustained it as constitutional and denied a preliminary injunction. Thereafter, the commission sought and secured permission to intervene in the action. The commission having issued the interpretation of section 86202 herein involved, plaintiffs then sought an injunction prohibiting the enforcement of the section as so construed. It is the granting of that second application for an injunction that is here before us.

[3]Government Code section 83114.

"By the Commission: We have been asked the following questions by Donald C. Green, Law Offices of Green and Azevedo:

"(a) Does Government Code Section 86202[1] prevent a lobbyist from advising his or her employer with regard to making political campaign contributions to state officials?

"(b) Do Sections 86200, *et seq.* prohibit a lobbyist from advising his or her employer with regard to the voting record of a legislator?

"CONCLUSION

"(a) By advising his or her employer with regard to making political campaign contributions to state officials, the lobbyist has arranged for the making of a contribution as prohibited by Section 86202 if all the following criteria are met:

"(1) the lobbyist communicated with the employer;[2]

"(2) The advice was given wholly or partially with the intent of influencing the employer's decision to make a campaign contribution;

"(3) the employer in fact made a contribution; and

"(4) the lobbyist's advice was a causal element in the making of the contribution.

"(b) The dissemination of factual information concerning a public official's voting record does not fall within the prohibitions of Sections 86200, *et seq.*"

"[1]All statutory references are to the Government Code unless otherwise noted."

"[2]The test announced in this opinion does not apply to the communication of factual information readily available to members of the public. See discussion *infra*, page 6."

The trial court's temporary injunction, herein appealed from, reads as follows:

"It Is Ordered that during the pendency of this action or until further order of the Court, Intervenor Fair Political Practices Commission, its agent, officers, employees and representatives, and all persons acting in concert or participating with them, are hereby enjoined from commencing proceedings as civil prosecutor against any lobbyist based on the single act of advising or making a recommendation to the employer of the lobbyist with regard to the making of a political contribution, where the advice or recommendation results in a contribution from the employer."

The present appeal presents two problems: (1) does the commission's interpretation of the words "arrange for" properly reflect the meaing and purpose of section 86202; and (2) if so, is the section, as so interpreted, a violation of the constitutional right of free speech. For the reasons set forth below we conclude that the commission has properly interpreted the statute but that the statute, so interpreted, is unconstitutional.

I

As the commission points out, the statute expressly prohibits a lobbyist from making a contribution personally, or from acting as "an agent or intermediary" in such a contribution. Applying the usual doctrine that a statute should be interpreted in such a manner as to give effect to all of its provisions, the commission was within a legitimate exercise of its power of interpretation in concluding that the words "arrange for" were included to prevent the exact practice herein involved—namely action by a lobbyist designed and intended to cause his employer to make a contribution.

Because the statute does not prohibit the employer of a lobbyist from making a political contribution, it does not entirely eliminate the potential effect of such a contribution on the vote or position of an officeholder. Thus, if an employer, without any communication whatsoever with a lobbyist, makes a contribution to an office holder or to a candidate for office, the potentiality of influence by the unparticipating lobbyist will still exist. The office holder may well look with increased favor on a lobbyist representing a financial friend. In fact, a contribution lawfully can be made by one interested in pending or potential political action before that person has retained a lobbyist to present his views when action becomes imminent. The potentiality of influence will be the same.

Faced with that inescapable fact, the statute and the commission have attempted to limit what the statute did not, and the commission cannot, prevent in its entirety. While persons interested in potential governmental action may make political contributions because of their own concepts of their own interests, the chances of a decision to make a contribution are increased if a lobbyist urges, or even suggests, the desirability of such action.

For those reasons, we conclude that the commisson has properly interpreted the statute as prohibiting communications between lobbyist and employer designed to influence the employer's decision to make, or to withhold, a political contribution.

II

However, under well established concepts of freedom of speech, neither the statute nor the commission lawfully can restrict all communications between lobbyist

and his employer. The interpretation herein involved expressly recognizes that right. Thus, a lobbyist, under the interpretation, may quite lawfully tell his employer of the possible position of an officeholder or candidate, based on that person's past voting record or official actions, or on his publicly expressed social or political attitudes. Insofar as the interpretation purports to restrict the communication by the lobbyist to matters of public record or public knowledge, we think it goes too far. A lobbyist is (or at least his employer hopes he will be) an expert in evaluating political positions. An employer is not. We can see no valid reason, consistent with free speech, to prevent a lobbyist from telling his employer of the lobbyist's opinion as to an officeholder or candidate's probable future action based on the totality of all information, public or otherwise, that the lobbyist can obtain.

The problem remaining is whether the commission's interpretation, so expanded, is consistent with the guarantee of freedom of speech. The commission contends that, while purely informational communication may, of course, influence the employer to make, or to withhold, a contribution, still, unless the information conveyed is coupled with a recommendation, the choice will still be where the statute leaves it—i.e., with the employer.[4]

That argument is too simplistic. The guarantee of freedom of speech prohibits not only governmental

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[4]Information given without recommendation does not necessarily impel a decision to contribute. The employer may determine to reward past favors or insure their repetition; however, he may conclude that limited funds are better spent on another race where an additional favorable candidate may be elected. By the same token, unfavorable information may lead to the conclusion that a contribution might result in a change of attitude.

action directly restricting speech, but also action that has a "chilling effect" on legitimate speech. As plaintiffs point out, even a communication purely factual may be so made, either by exclusion of some data, by emphasis, oral or written, by its timing, or otherwise, as to have the impact on a receiver of implying a recommendation for action. To subject a lobbyist to the chance that some trial court or jury may, in the future, read into his factual communication an intent to influence the employer's decision is to limit, if not to inhibit, any legitimate communication. The constitutions of both the state and the nation prohibit subjecting the exercise of free speech to that kind of risk.

The risk can be obviated only by allowing, as the judgment herein does, a lobbyist, in private communication, to make his recommendation for action.

The judgment is affirmed.

Dunn, J., and Jefferson (Bernard), J., concurred.

APPENDIX II.

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of: Opinion requested by California Labor Federation, AFL-CIO, 1 FPPC Opinion 28, (No. 75-004 June 18, 1975.)

BY THE COMMISSION: We have been asked the following questions by Charles Scully, General Counsel of the California Labor Federation, AFL-CIO ("the Federation"):

1. If both officers and members of the staff of the Federation are lobbyists, may the Federation, through its standing committee on political education, engage in its traditional political activities?
2. If the three salaried officers of the Federation, namely, the President, the Secretary-Treasurer and the General Vice President, are lobbyists, may the Federation, through its standing committee on political education, engage in its traditional political activities?
3. If members of the Executive Council of the Federation are lobbyists, may the Federation, through its standing committee on political education, engage in its traditional political activities?
4. If the answer to each of the first three questions is negative, then is there any manner in which the Federation may continue to engage in its traditional political activities and also continue to attempt to influence legislative and administrative action?

Relevant information concerning the structure of the Federation is contained in the analysis.

CONCLUSION

Nothing in the Political Reform Act prevents the Federation from continuing to participate fully in the political process. This is so whether or not members of the staff, members of the Executive Council or officers of the Federation act as lobbyists. However, those individuals who are lobbyists may not participate in any activities of the Federation which come within the prohibitions of Government Code Section 86202[1] and may not serve on COPE, the Federation's political arm.

ANALYSIS

I.

The questions we have been asked are important not only because of the large size of the Federation and the important role it has historically performed in political campaigns,[2] but also because the questions call for elaboration of the fundamental nature of the regulation of lobbyists embodied in the Political Reform Act. In essence, we are asked whether it is possible under the Act for a mass membership organization to represent the interests of its members before the Legislature and administrative agencies and at the same time make contributions to state officials and candidates and otherwise remain active in the political process. As we shall see, the regulation of lobbyists imposed

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[1]All statutory references are to the Government Code unless otherwise noted.

[2]The Federation is the largest labor organization in the state, representing through its affiliates over one million members. In 1974 it reported spending more than $150,000 in behalf of state candidates and measures alone.

by the Act, which protects important interests of the public in assuring integrity and impartiality in government, is fully consistent with the continuation by the Federation of its traditional lobbying and political activities.

The Political Reform Act attempts to diminish the improper personal influence of lobbyists by prohibiting them from making contributions to state officials and candidates.

> It shall be unlawful for a lobbyist to make a contribution [to a state candidate, a committee supporting a state candidate, or an elected state officer], or to act as an agent or intermediary in the making of any [such] contribution or to arrange for the making of any [such] contribution by himself or by any other person.
>
> Section 86202

This and other provisions of the Political Reform Act are premised on the idea that a lobbyist is an advocate before a tribunal. An advocate should not be bearing gifts. He should succeed or fail on the merits of his position and the persuasiveness of his arguments, not on how much money he can contribute to a political campaign. The Political Reform Act severed the link between lobbying and making contributions. Individuals who wish to lobby must concentrate their efforts on advocacy. Individuals who wish to make contributions may not be lobbyists.

On the other hand, the Act does not prohibit organizations which employ lobbyists from making contributions. Organizations, including those which employ lobbyists, are free to make contributions so long as they are disclosed and so long as the lobbyists do not

themselves participate in the making or arranging of contributions.

With these general principles in mind, we turn next to a description of the structure of the Federation.

II.

The California Labor federation is a state central body which is chartered by the national American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

The Federation consists of organizations located in California which are: a) local unions chartered directly by the AFL-CIO or by the national or international unions affiliated with the AFL-CIO, b) central labor bodies chartered by the AFL-CIO, c) councils and joint boards chartered by national or international unions affiliated with the AFL-CIO, and d) such other subordinate bodies that the Executive Council may determine are eligible for affiliation (California Labor Federation, AFL-CIO, Constitution, Rules and Order of Business, Article III, Section 1).[3]

The supreme governing body of the Federation is the convention, which meets regularly every two years and specially to consider endorsement of candidates and statewide propositions (Constitution, Article XV, Sections 1, 2). Between meetings of the convention, the affairs of the Federation are directed by the Executive Council (Constitution, Article IX, Section 2), which consists of the officers of the Federation—a President, a Secretary-Treasurer, a General Vice President and 34 additional Vice Presidents (Constitution, Article

[3]References herein to "Constitution" are to the constitution of the California Labor Federation, unless the contrary is indicated.

IX, Section 1; Article IV, Section 1). The first three named officers are full-time and salaried. The remaining members of the Executive Council are not salaried, but are entitled under the Constitution to reimbursement for expenses when attending Executive Council meetings and $35 per day compensation plus expenses when officially authorized to work on business of the Federation (Constitution, Article XI, Sections 1, 2). The Secretary-Treasurer is the chief executive officer of the Federation (Constitution, Article VII, Section 1).

The Executive Council instructs the Secretary-Treasurer to introduce legislation and assists the Secretary-Treasurer in carrying out his legislative responsibilities (Constitution, Article IX, Section 4). One of the Executive Council's seven standing committees is the Committee on Legislation, composed of members of the Executive Council appointed by the President. The Committee on Legislation promotes the policies and programs of the Federation in the State Legislature and makes recommendations to the Executive Council (Constitution, Article X, Section 1).

In 1974, the following members of the Executive Council registered as legislative advocates under former Government Code Section 9906: the President, the Secretary-Treasurer and one of the Vice Presidents. In 1975, under the provisions of the Political Reform Act, the same three officers have registered as lobbyists for the Federation.

Another major function of the Executive Council is to recommend endorsement of candidates and ballot measures to the Convention (Constitution, Article XV, Part F) and to serve as the Standing Committee on Political Education (hereinafter referred to as COPE) (Constitution, Article XIX, Section 1).

The rules of the national AFL-CIO charge COPE with the following responsibilities:

1. To encourage voter registration of members and their families.
2. To insure maximum voting participation on election day.
3. To encourage qualified candidates to seek public office.
4. To educate members and their families and develop community education programs on political issues through study, discussion and other appropriate means.
5. To support or oppose candidates (congressional and state) and ballot propositions in both primary and general elections.
6. Assist in the effective solicitation of individual voluntary contributions to the Political Contributions Committee of the Committee on Political Education of the national AFL-CIO.
7. Carry out a statewide voter identification program in cooperation with local central body COPES.

III.

We must first consider whether the Federation itself, or any of its constituent parts such as the Executive Council, the Committee on Legislation or the Standing Committee on Political Education, is a "lobbyist," as that term is defined in Section 82039. If the Federation were a lobbyist, then it would clearly be prohibited from making contributions to state officials and to candidates for state office under Section 86202, and to that extent its ability to engage in political activities would be impaired.

The definition of "lobbyist" in Section 82039 includes "any person" who is employed to lobby "directly or through his agents." Since the Federation is unquestionably a "person" as that term is defined in Section 82047, it has been suggested that the Federation may be a lobbyist because it is "employed" by its membership to lobby through its "agents," the individual lobbyists who represent the Federation.

We conclude that neither the Federation, the Executive Council nor any of the Federation's committees are lobbyists. The status of organizations like the Federation has been dealt with specifically by a regulation of the Commission:

> When a lobbyist is employed or retained by a bona fide association, including any bona fide federation, confederation, or trade, labor, or membership organization, the association is the *employer* of the lobbyist.
>
> 2 Cal. Admin. Code Section 18618 (Emphasis added.)

It is apparent, then, that although the Federation is an employer of lobbyists and is thereby required to file periodic reports under Section 86109, it is not itself a lobbyist and is therefore not prohibited, as an organization, from making contributions. Similarly, the Executive Council and the committees of the Federation are not lobbyists and are not subject, as organizations, to the prohibition of contributions.

IV.

Having established that the Federation, the Executive Council and the committees are entitled, as organizations, to make contributions, we turn next to the questions raised by the fact that certain officers and

staff members of the Federation are lobbyists and are thus personally subject to the prohibitions. The Federation and COPE engage in a broad variety of political activities, some of which may be performed by its lobbyists. For example, to the extent the organization endorses, assists or makes contributions to federal candidates, Section 86202 is inapplicable.[4] Other political activities may also be outside the scope of the prohibitions. We need not and do not now decide when, if ever, participation by a lobbyist in activities such as a voter registration or get-out-the-vote drive would be in violation of Section 86202. Such questions could turn on individual facts which are not now before us.

On the other hand, some political activities of the Federation are clearly proscribed for lobbyists. Certainly lobbyists may not participate in decisions to make contributions to state candidates and officials, act as an agent or intermediary in the making of any such contribution, or to arrange for the making of any such contribution.[5] Nor do we believe lobbyists may participate in the procedures whereby the Federation endorses candidates for state office (or for non-state office if the candidate is a state official). As we understand the procedures of the Federation, an endorsement by the Convention is by rule or by practice a prerequisite to receiving a cash contribution, and a significant per-

[4]We are advised that cash contributions to federal candidates are made by the national AFL-CIO and not by the Federation. On the other hand, the Federation's endorsements are no doubt considered by the national AFL-CIO, and the Federation distributes literature supporting all endorsed candidates.

[5]The question of what is "arranging" for a contribution is not addressed in this opinion except as it relates to endorsement of candidates. For a complete discussion of "arranging for a contribution," see Opinion No. 75-098.

centage of the candidates who are endorsed receive cash contributions. All endorsed candidates are supported in literature published and distributed by and at the expense of the Federation. Under these circumstances, we believe that the lobbyist's participation in the endorsement is closely enough related to the ultimate contribution that he may be said to have "arranged" the contribution within the meaning of Section 86202. Any contrary conclusion would undermine the purposes of Section 86202 by forcing candidates and officeholders who hope to receive contributions from the Federation to curry the favor of the lobbyist in order to obtain the endorsement which is a first essential step toward receiving the contribution. In this manner the personal influence of the lobbyist which is traceable to control of money would be enhanced, in precisely the manner which the Political Reform Act is intended to prohibit.[6]

V.

We have been asked specifically about staff members, officers and Executive Council members who are lobbyists.

The staff of the Federation consists of nineteen full-time paid persons and a General Counsel on a monthly retainer. At least two members of the staff are registered lobbyists as is the General Counsel. The staff are not voting members of the Executive Council which recommends endorsement of candidates to the convention and which also acts as COPE. Thus, the staff

[6]We do not conclude that it is always unlawful for lobbyists to participate in the making of endorsements by the organizations they represent. If the organization does not make contributions, or if it can be shown that there is no significant connection between the endorsement and the likelihod of making a contribution, the lobbyist's participation is not prohibited.

who are lobbyists need not engage in the political activities barred by this Act and as a matter of law may not engage in such activities.

The Secretary-Treasurer, on the other hand, who is registered as a lobbyist, acts as the chief executive officer of the Federation. According to the Constitution of the Federation, his duties include receiving all monies due to the Federation, keeping its books and papers, maintaining the offices, compiling an up-to-date list of the principal officers of each affiliated organization, representing the Federation at all national conventions, appointing representatives and directing their activities and employing staff. He is a member of the Executive Council, and serves the role of Director of COPE, Secretary-Treasurer of COPE and legislative representative of the Federation (Constitution, Article VII, Section 1).

The President of the Federation, also registered as a lobbyist, presides at all conventions and meetings of the Executive Council, represents the Federation, appoints—subject to the approval of the Executive Council and the Convention—the members of the various committees of the Federation, including the Committee on Legislation, and serves as Chairman of COPE (Constitution, Article VI, Section 1, and Rules Governing COPE (Rule 31).

We conclude that the above-outlined roles of the Secretary-Treasurer and the President are not compatible under the provisions of the Act. Although the making of contributions in state elections is not the sole activity of COPE, neither is it a peripheral activity. A lobbyist is not permitted to "arrange" such contributions. The Director and Chairman are responsible for the management and supervision of COPE, and

we do not believe it is realistic to expect them to divorce themselves entirely from a major part of COPE's activities. Presumably, they are responsible for the hiring and firing of COPE staff. Even if they delegate decisions regarding contributions to members of the staff, it is almost inevitable that the staff will respond to the actual or perceived desires of the Director and Chairman. Furthermore, the state official who receives a contribution from COPE is likely to assume, rightly or wongly, that the contribution was ordered by the Director or the Chairman, thus enhancing their influence as lobbyists in precisely the manner that the Act seeks to prevent. For these reasons we find that the Secretary-Treasurer and the President of the Federation cannot continue to act both as lobbyists and hold these positions in COPE.[7]

The Commission cannot and should not outline the appropriate organizational structure for the Federation. The Federation must decide whether it wishes its key officers to continue as lobbyists or whether these persons should continue to participate in its political endorsements and decisions on political contributions. Under the terms of the Political Reform Act, the Federation's officers may not perform both functions.

The General Vice President represents the Federation and works under the direction and supervision of the Secretary-Treasurer (Constitution, Article VIII, Section 1). Since he is not a registered lobbyist, none of his activities are restricted. This person's activities relating to contributions in state political races may not be supervised or directed by the Secretary-Treasurer.

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[7]We note that the national rules governing COPE do not require the Secretary-Treasurer to be Director of COPE. See AFL-CIO, Rules Governing Committees on Political Education of State and Local Central Bodies, Rule 30.

At the present time, only one member of the Executive Council, other than the President and Secretary-Treasurer, is a registered lobbyist, and he is also a paid member of the staff of the Federation. We are informed by the Federation that it is not anticipated that other members of the Executive Council will qualify as lobbyists.

The members of the Executive Council who are not lobbyists may continue to perform all activities without restriction. The one member who is a lobbyist may not engage in activities prohibited by Section 86202 of the Act and may not continue to serve on COPE.

Approved by the Commission on June 18, 1975. Concurring: Brosnahan, Carpenter, Lowenstein, Miller and Waters.

/s/ Daniel H. Lowenstein
Daniel H. Lowenstein
Chairman

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of: Opinion requested by Katherine Rawlings, Executive Secretary, Sacramento County Democratic Central Committee, 1 FPPC Opinion 62, (No. 75-053, July 2, 1975.)

BY THE COMMISSION: We have been asked the following questions by Katherine Rawlings, Executive Secretary of the Sacramento County Democratic Central Committee:

The Sacramento County Democratic Central Committee has a check debiting plan, into which contributions to the Central Committee are made by monthly withdrawals from its members' bank accounts. The main purpose of funds received by the Central Committee is to support its ongoing programs, such as registration, the overhead for the operation of the year-round headquarters in Sacramento and the payment of salary to its one part-time secretary. In election years, the Sacramento County Democratic Central Committee also organizes and staffs the "United Headquarters" operation for all Democratic candidates running in Sacramento County, as well as state-wide and national candidates when applicable.

Can registered lobbyists participate in the check debiting plan or contribute in any way to this Central Committee?

CONCLUSION

It is unlawful for a registered lobbyist to contribute to the Central Committee and it is unlawful for the Central Committee knowingly to receive such a contribution.

ANALYSIS

The check-debiting plan used by the Sacramento County Democratic Central Committee is a method for making contributions to the Committee. It is unlawful for a lobbyist to make a contribution to a state candidate, a committee supporting a state candidate or an elected state officer. Government Code Sections 86200, 86202.[1] It is also unlawful for any person knowingly to receive any such political contribution from a lobbyist. Section 86204.

The Sacramento County Democratic Central Committee is a "committee" within the definition of that word in Section 82013:

> . . . any person or combination of persons who directly or indirectly receives contributions or makes expenditures or contributions for the purpose of influencing . . . the action of the voters for or against the nomination or election of one or more candidates, . . . including any committee or subcommittee of a political party, whether national, state or local, ...

Although the committee may not be directly supporting a state candidate during years without state elections, the purpose of its existence is to support such candidates. A county central committee is by nature a "committee supporting a state candidate" within the meaning of Section 86200, during odd-numbered as well as even-numbered years. It would be subverting the intent of the Act to conclude that contributions could be made to pay committee overhead so long as not made directly to candidates. Any

[1]All statutory references are to the Government Code unless otherwise noted.

committee has numerous expenses including overhead which in total make up its activities in support of candidates.

Under its present organization, contributions by lobbyists to the Committee are prohibited and participation by lobbyists in the check-debiting plan is not allowed.

Approved by the Commission on July 2, 1975. Concurring: Brosnahan, Carpenter, Lowenstein and Miller. Commissioner Waters was absent.

/s/ Daniel H. Lowenstein
Daniel H. Lowenstein
Chairman